



May 2010

Volume 2, Issue 5



Greetings!

On May 6th the Commonwealth celebrated its 13th Annual Governors Diversity Day and schools across the state took the time to incorporate into their curriculum lessons on the importance of diversity. This year's theme was "Diversity is Everywhere." School districts were provided with the Diversity Day Tool Kit which provided information on how to organize programs for the day. Districts took many approaches to the subject, some had guest speakers, some had special lesson plans, some created their own unique video presentations and others allowed the students to express their feelings through art or essays.

A week ago the Office of Diversity and Equality visited Peaks Mills School here in Frankfort and observed a project from Ms. Gossage's classrooms. Her students in grades 2nd and 3rd and another group comprised of 4th and 5th graders created their own "poster quilts" which were prominently displayed in the hallway between the main office and the library near the lunch room and school gym. The assignment was for each student to take a piece of the poster quilt and create what they thought diversity meant to them. Ms. Gossage then had the students reattach their pieces back to the poster quilt and what materialized was a unique display showing the vast diversity of thought in these students. Needless to say, we were all impressed. Some of the students met with us near the displays and we took some photos of them standing by their creation [*See Page 3 for photographs*]. This display and the positive energy we felt from the students proved to us that projects like this which involve cooperation from state agencies and the public school systems are win, win opportunities.

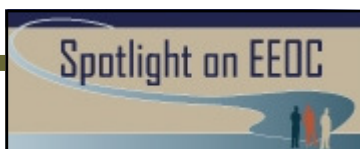
Clinton Morris of ODE was the contact person for the Governors Diversity Day, he worked diligently to get the information out to schools and created the tool kit. Kudos's to Clinton on a job well done and to all the districts and schools that participated in this event. If you have school age family members you may want to ask them if they participated in this program and if so find out what they did and encourage them to be a force for diversity. If their school did not participate, contact the school and ask them to consider participating in the future. Just like Ms. Gossage's students learned valuable lesson about each other's thoughts and feeling about diversity, perhaps more students will gain insight into this area and help make the Commonwealth a pleasant place to live and to raise a family.

Regards,
Singer



For the 2010 Calendar Year the Office of Diversity & Equality will be providing the following training opportunities for Anti-Harassment and Diversity. To register contact Singer Buchanan at **Singer.Buchanan@ky.gov**.

— REGISTER TODAY —				
Date	Audience	Title	(GSC) Room	Time
06/16/10	State Employees	Anti-Harassment	539	9am - 12 pm
	State Employees	Diversity	539	1pm - 4 pm
07/21/10	State Employees	Anti-Harassment	539	9am - 12 pm
	State Employees	Diversity	539	1pm - 4 pm
08/18/10	State Employees	Anti-Harassment	539	9am - 12 pm
	State Employees	Diversity	539	1pm - 4 pm
09/08/10	State Employees	Anti-Harassment	539	9am - 12 pm
	State Employees	Diversity	539	1pm - 4 pm
10/20/10	State Employees	Anti-Harassment	539	9am - 12 pm
	State Employees	Diversity	539	1pm - 4 pm
11/10/10	State Employees	Anti-Harassment	539	9am - 12 pm
	State Employees	Diversity	539	1pm - 4 pm



EEOC Sues City of Boone, Iowa For Age Discrimination

City Rejected Older Applicant for Less-Qualified Younger One, Federal Agency Says

<http://www.eeoc.gov/eeoc/newsroom/release/5-24-10a.cfm>

Pollard Agency Pays \$49,556 To Settle EEOC Religious Discrimination Lawsuit

Federal Agency Charged Security Guard Was Fired Because of Mennonite Head Scarf

<http://www.eeoc.gov/eeoc/newsroom/release/5-20-10b.cfm>

Overland Park Restaurant Sued By EEOC For Sexual Harassment Of Teen Worker

18-Year-Old Forced to Quit Because of Boss's Sexual Touching and Advances, Federal Agency Charged

<http://www.eeoc.gov/eeoc/newsroom/release/5-20-10.cfm>

Diversity Day at Peaks Mill Elementary



On May 6, 2006, students in Ms. Debbie Gossage's library class participated in the 13th Annual Governor's Diversity Day. Second, third, fourth and fifth graders at Peaks Mill Elementary in Franklin County were each given a blank piece of a large puzzle. Students were encouraged to personalize their individual pieces to display what makes him or her special and unique. Upon completion, the pieces were added together to make two large diversity displays located prominently in the hall of the school.

PICTURED: Top photo, left to right: Ismer Perez-Diaz, Chandler Davis, Kasthuri Pillapalayam, Ryleigh Darnell, Ms. Debbie Gossage. Bottom Photo, left to right: Oumaima Boughroud, Nancy Soriano, Keaton Sexton, Robbie Jones, Ms. Debbie Gossage.



1.8 million reasons supervisors should report harassment complaints to HR

By Richard S. Cleary
The Kentucky Employment Law Letter & HRLaw.com

The Sixth U.S. Circuit Court of Appeals (which covers Kentucky) recently considered whether to reverse a \$1.8 million jury verdict in favor of a victim of sexual harassment. The court's decision provides excellent guidance on how employers should - and shouldn't - respond to sexual harassment complaints. Read on to learn how you can protect yourself from liability in these situations.

Employee informally complains about harassment

Amanda West was subjected to sexual harassment almost immediately after she began working for Tyson Foods in January 2005. During her first week of work, she was repeatedly verbally harassed by male coworkers on her assembly line. She testified that approximately 10 to 15 times per shift, her male coworkers would "wolf whistle," stare at her, and make crude statements about her body. During her third week of employment, the harassment worsened. While she was working on her line, a male employee approached her from behind and tried to kiss her. She pulled away and told him to leave her alone, and he responded with several crude comments.

After that incident, West immediately sought out her trainer, Odell Stokes, and her line supervisor, Cory Parks, and verbally complained about her coworkers' behavior. She had previously attended a harassment training session at which she was informed that victims of harassment should report any incidents to their supervisors immediately. Tyson also stated at the training session that harassment complaints remained confidential and that it would investigate all complaints within two weeks after they were submitted. Because of the information she received during training, she believed that complaining to her trainer and supervisor was sufficient to report the harassment under company policy.

Stokes and Parks didn't respond properly to West's complaint. At first, they told her, "[T]hat's just how [the line workers] treat their women" and laughed. After they realized that she didn't think the incident was a laughing matter, they became serious and promised her that they would resolve the situation. Parks moved her to a different location on the processing floor, but he failed to report the complaint to Tyson's HR department.

During the next two weeks, the harassment continued. West was subjected to the same types of verbal harassment that occurred before, and on several occasions, male line workers touched her inappropriately. However, she didn't file any additional complaints - the verbal complaint to Stokes and Parks was the only complaint she ever filed - and she later testified that she believed Tyson's HR department was in the process of investigating her original complaint.

(Continued on Page 5)

The last straw occurred during West's fifth week of employment, approximately two weeks after she complained to Stokes and Parks. As she was walking to her car one night, she was followed closely by a male employee, and she feared that she would be raped. Although she wasn't harmed, she decided not to return to work and subsequently filed a lawsuit against Tyson.

Court affirms jury's verdict

West claimed that Tyson had violated the Kentucky Civil Rights Act and Title VII by creating a hostile work environment as a result of the sexual harassment. The case was tried before a jury, which awarded her \$1.8 million as compensation for mental distress, back pay, front pay, and punitive damages. Tyson appealed the jury's verdict, asserting two arguments in its defense.

First, Tyson claimed that the jury could not have reasonably found that its response to the complaint wasn't proper and appropriate. A remedy is appropriate if it is "reasonably calculated to end the harassment." In this case, the court determined that Parks' response of transferring West to a different location on the processing floor was "woefully insufficient." According to the court, the supervisor should have spoken with the employees who harassed West, followed up with her to determine if the harassment had stopped, and reported the harassment to upper management. Because he failed to take those actions, the court held that the jury could have reasonably found that Tyson's response was insufficient.

Tyson also asserted that because West filed only one complaint and didn't complain after Parks moved her to a different location, it didn't have sufficient knowledge that the harassment was occurring. Courts will hold that an employer has notice of harassment when either (1) someone who has the power to stop the harassment has sufficient information to know that it's occurring or (2) someone who can reasonably be expected to report the harassment has sufficient information to know that it's occurring. If a manager or supervisor knows about the harassment, then the employer is deemed to have knowledge of it.

The court held that the jury could have reasonably concluded that Tyson had knowledge of the harassment because West reported it to her supervisor. Tyson argued that when it became apparent that Parks didn't take appropriate action, West should have complained to other management personnel. The court rejected that argument, concluding that because the company advised its employees that harassment investigations take two weeks, she could have believed that HR was still investigating her original complaint. For that reason, the court found that Tyson had knowledge of the harassment. *West v. Tyson Foods, Inc.*, No. 08-6516, 2010 WL 1507629 (6th Cir., April 15, 2010).

Bottom line: how Tyson should have responded

This decision shows that merely implementing a harassment-reporting policy isn't always sufficient to protect your company against liability. Tyson had an effective policy, but it was undermined by its supervisor's mistakes. To properly respond to West's complaint, Parks should have spoken to the employees accused of harassment and reported their misconduct to other management officials. He also should have followed up with West to ensure that the remedy he implemented had effectively stopped the harassment. If he had taken those steps, Tyson might have avoided a \$1.8 million verdict.

GMMTP Spotlight

Throughout 2010, ODE will be spotlighting current members of the Governor's Minority Management Trainee Program. We appreciate your continued support of these individuals during their journey to become the "leaders they were meant to be."



Maridely Loyselle

Position: Environmental Engineer

Cabinet/Agency: Division of Waste Management

Length of Service: 5 Years

Educational Background: BS in Chemistry from University of Puerto Rico, Mayaguez Campus (1995); BS in Biosystems & Agricultural Engineering from University of Kentucky (2003)

Community Involvement: Volunteering at MQ Elementary School; Representative of the Hispanic Community Committee at Mary Queen of the Holy Rosary Catholic Church; Facilitator for the Virtus Training (Awareness Training Sexual Misconducts) for the Dioceses of Lexington.

Professional Strengths: Strong technical background, Good communicator, Very high ethics standards, Demanding, Very professional, Intense critical thinker, Very confident, Diligent, I have photographic memory, Forward about staying expectations and goals, Focus, Mentoring

Motto: *"Integrity, Perseverance and Pride. Everything you do speaks about you, so do it right the first time; so no need for second changes."*



Elwyn Rainer II

Position: Network Analyst III and Wireless Coordinator

Cabinet/ Agency: Kentucky Department of Veterans Affairs

Length of Service: 4 Years

Educational Background:
Bachelor in Computer Science, Kentucky State University;
Masters in Computer Science, Kentucky State University

Community Involvement: Bethesda Temple Youth Ministry Assistant Director, Jail Ministry, Teach basic computer skills.

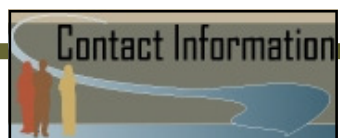
Professional Strengths: Customer Service, Technical Guidance (oral and written), Project Management

Moto: *"If you can't do your job then I am not doing mine." - E. Rainer II*



“We become not a melting pot but a beautiful mosaic. Different people, different beliefs, different yearnings, different hopes, different dreams.”

- Jimmy Carter
39th US President, Author, Humanitarian



Office of Diversity and Equality

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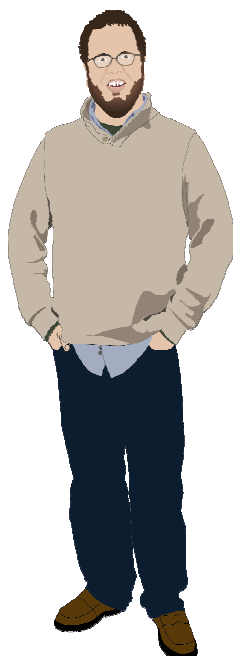
Arthur Lucas, Executive Director
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Colene Elridge, HR Specialist III
Clinton Morris, Executive Assistant

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<http://personnel.ky.gov/diversity>



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